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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,108	09/29/2003	Thomas R. Goecke	29006-2	2438

21130 7590 10/18/2005

BENESCH, FRIEDLANDER, COPLAN & ARONOFF LLP
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CLEVELAND, OH 44114

EXAMINER

AHMAD, NASSER

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

28

Office Action Summary	Application No. 10/674,108	Applicant(s) GOECKE, THOMAS R.	
	Examiner Nasser Ahmad	Art Unit 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Rejections Withdrawn

1. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, made in the last Office Action has been withdrawn in view of the amendment filed on July 25, 2005.
2. Claims 1-6 and 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Condon (5686170) has been withdrawn in view of the amendment.
3. Claims 1-7 and 9-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Ungar (6440538) has been withdrawn in view of the amendment.
4. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Condon in view of Ungar has been withdrawn in view of the amendment.

Response to Arguments

5. Applicant's arguments with respect to claims 1-7, 9-10 and newly submitted claims 11 and 12 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 1- 6, 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maurer (5839977).

Maurer relates to an adhesive tape appliqué (abstract) comprising a polymer layer (54) having a durometer Shore A hardness of between 75 and 95 (col. 10, lines 6-10) and a thickness of 0.08 to 0.14 inches (col. 12, lines 10-14), and a layer of adhesive is attached to the polymer layer. The tape polymer layer can have textures surface, such as stepped as shown in figure-14 and the thickness of said layer varies between 0.008 and 0.048 inches (col. 12, line 66 to col. 13, line 3). However, Maurer fails to teach that the hardness ranges between 92 and 100 and that the thickness is between 0.020 and 0.065 inches. It would have been obvious to one having ordinary skill in the art to modify Maurer by providing the polymer hardness to range between 92 and 100 because Maurer teaches a hardness of 95 which is in the claimed range of 92-100, and also the thickness of 0.048 inches is in the claimed range of 0.020 and 0.065 inches.

The tape is attached to a substrate(18) by the outermost side of the adhesive. The polymer layer is polyvinyl chloride (PVC) (col. 12, lines 10-11). The polymer can include colors (col. 9, lines 17-18) and PVC is known in the art to be clear. The adhesive is a double-sided adhesive tape as it adheres to the polymer layer on one side and the substrate on the opposite side. Further, because the adhesive is protected by a release liner (col. 12, lines 14-17), it would be obvious to one having ordinary skill in the art that the adhesive is of the pressure sensitive type.

As for the adhesive thickness being 65-69 mils, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Maurer's

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adhesive to have a thickness of 65-69 mils, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. In this case, in the absence of any showing of criticality by the applicant, it would have been obvious to modify Maurer's adhesive to have the claimed thickness of 65-69 mils for optimizing adhesivability of the tape.

Similarly, it would have been obvious to modify Maurer's adhesive to have a peel adhesion of greater than 2.0 lb/in. width for providing adhesivability of the tape to a substrate.

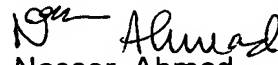
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser Ahmad whose telephone number is 571-272-1487. The examiner can normally be reached on 7:30 AM to 5:00 PM, and on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Nasser Ahmad
Primary Examiner 10/13/05
Art Unit 1772

N. Ahmad.
October 13, 2005.